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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:

Wm. A. KNAUS et al.

Application No: 09/816,152

Filed: March 26, 2001

Title: **BROADBAND COMPUTER-BASED NETWORKED SYSTEMS FOR
CONTROL AND MANAGEMENT OF MEDICAL RECORDS**

Group Art Unit: 3626

Examiner: Lena Najarian

MAIL STOP = APPEAL BRIEF - PATENTSCommissioner for Patents
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450**REPLY TO THE NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF**

Honorable Sir:

Appellant received a Notification of "Non-Compliant Appeal Brief" (the "Notice") mail dated October 20, 2006 (copy attached). According to this Notice, Appellant's Appeal Brief is allegedly defective for failure to comply with one or more provisions of 37 CFR 41.37. In particular, three boxes are checked indicating that Appellant's Appeal Brief is lacking certain required elements. Specifically, boxes 1, 4 and 10 are checked. These boxes assert that the Appeal Brief does not comply with 37 CFR 41.37(c); 37 CFR 41.37(c)(1)(v); and "other". Under other is written that: "The claimed invention does not identify the independent claims 1, 20, 30, 40, 41 and 46 in section v."

Appellant reviewed these sections of 37 CFR 41.37 and also the Brief. No non-compliant sections were found and the instant independent claims are all properly identified by page and line number in section v of the Brief. There are no other requirements.

Appellant's representative telephoned Ms. Bridget C. Monroe on November 1, who is listed on the Notice as the Patent Appeal Center Specialist for this application, and requested further clarification. Ms. Monroe stated that Appellant's Summary of The Claimed Subject Matter section was incomplete, but only because "subheadings" illuminating the independent

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claims were absent. According to Ms. Monroe, boxes 1, 4 and 10 of the Notice were checked for only this reason.

Appellant again reviewed 37 CFR 41.37, and found no requirement that subheadings be present in an Appeal Brief. According to this section of 37 CFR, the "Summary of claimed subject matter" should provide:

"A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters."

As is believed to be clear, there is no requirement for subheadings in an Appeal Brief. Appellant is only required to identify by reference to page and line number in the specification, independent claims and any dependent claims argued separately. This was done and is clear on pages 2-4 of the Appeal Brief. No more is required under 37 CFR 41.37.

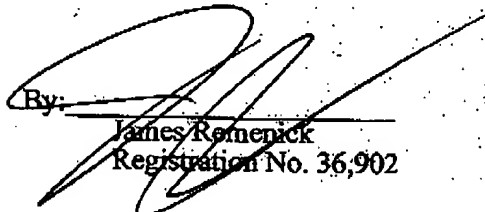
Accordingly, because Appellant's Brief complies with all the requirements of 37 CFR 41.37, the Notification of Non-Compliant Appeal Brief mail dated October 20, 2006, was issued in error. Appellant respectfully requests that it be withdrawn and that the Appeal Brief be forwarded for further consideration.

If any fees are deemed required in the filing of this reply, please charge any shortage in fees due in connection with the filing of this paper to Deposit Account 14.1437, referencing Attorney Docket No. 8123.002.

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Respectfully submitted,
NOVAK DRUCE & QUIGG LLP

Date: November 2, 2006

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